

11 RJ DUBLIN LLC,

12 No. C 12-4205 RS

13 v. Plaintiff,

14 GEORGE A. SAFFAS,
15 Defendant.**ORDER VACATING CASE
MANAGEMENT CONFERENCE AND
REQUIRING DEFENDANT TO SHOW
CAUSE WHY ACTION SHOULD NOT
BE REMANDED**

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17 This action was initiated as an unlawful detainer in Alameda Superior Court. Plaintiff seeks
18 possession of real property it purchased at a foreclosure sale. Appearing *in pro se*, defendant
19 George A. Saffas removed the matter to this Court, asserting that “removal is proper based on
20 federal question.” Notwithstanding the delay a removal can cause, and the manifest lack of a
21 tenable basis for the removal, plaintiff inexplicably has failed to move for remand. Nevertheless,
22 even where the propriety of removal is not contested, “federal courts are under an independent
23 obligation to examine their own jurisdiction.” *Rains v. Criterion Systems, Inc.*, 80 F.3d 339, 342
24 (9th Cir. 1996) (quoting *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 229 (1990)).

25 Although the notice of removal is not entirely clear, it appears Saffas contends the
26 underlying loan transaction and/or subsequent foreclosure violated one or more provisions of federal
27 law. Such matters, however, would at most be potential defenses to plaintiff’s claim. The existence
28 of federal question jurisdiction is governed by the “well-pleaded complaint rule.” *Holmes Group*,

1 *Inc. v. Vornado Air Circulation Systems, Inc.*, 535 U.S. 826, 830 (2002).¹ Under that rule, a federal
2 question must be presented by what is or should have been alleged *in the complaint*. *Id.* The fact
3 that a federal question may be implicated by matters raised in an answer or counterclaim is
4 insufficient. *Id.* at 831. Here, plaintiff's unlawful detainer complaint is premised solely on state law
5 and no basis for federal jurisdiction appears.

6 Accordingly, the Case Management Conference set for February 7, 2013 is vacated. No
7 later than February 21, 2013, defendant shall file a brief, not exceeding 10 pages, setting out any
8 arguments he may have as to why this action should not be remanded to Alameda Superior Court for
9 lack of jurisdiction. In the event defendant does not respond, the case will be remanded without
10 further notice.

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12 IT IS SO ORDERED.

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15 Dated: 2/6/13



16 RICHARD SEEBORG
17 UNITED STATES DISTRICT JUDGE

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28 ¹ The rule applies equally to evaluating the existence of federal questions in cases brought initially
in this court and in removed cases. *Id.* at n. 2

1 **THIS IS TO CERTIFY THAT A HARD COPY OF THIS ORDER WAS MAILED TO:**

2 George A. Saffas
22568 Mission Boulevard, #429
3 Hayward, CA 94541

4
5 Edward Alexander Nagy
6 Attorney at Law
6 510 3rd Street, Suite 101
7 Oakland, CA 94607

8 DATED: 2/6/13

9
10 /s/ Chambers Staff
10 Chambers of Judge Richard Seeborg